

**IN THE UNITED STATES COURT OF APPEALS  
FOR THE FIFTH CIRCUIT**

United States Court of Appeals  
Fifth Circuit

**FILED**

October 21, 2011

Lyle W. Cayce  
Clerk

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No. 10-50686  
Conference Calendar

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UNITED STATES OF AMERICA,

Plaintiff-Appellee

v.

HENRY VILLANUEVA,

Defendant-Appellant

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Appeal from the United States District Court  
for the Western District of Texas  
USDC No. 2:08-CR-232-6

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Before BENAVIDES, DENNIS, and SOUTHWICK, Circuit Judges.

PER CURIAM:\*

The attorney appointed to represent Henry Villanueva has moved for leave to withdraw and has filed a brief in accordance with *Anders v. California*, 386 U.S. 738 (1967), and *United States v. Flores*, 632 F.3d 229 (5th Cir. 2011). Villanueva has filed a response. To the extent that Villanueva's brief may be construed to raise a claim of ineffective assistance of counsel, the record is insufficiently developed to allow consideration of the claim at this time; such a claim generally "cannot be resolved on direct appeal when the claim has not been

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\* Pursuant to 5TH CIR. R. 47.5, the court has determined that this opinion should not be published and is not precedent except under the limited circumstances set forth in 5TH CIR. R. 47.5.4.

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raised before the district court since no opportunity existed to develop the record on the merits of the allegations.” *United States v. Cantwell*, 470 F.3d 1087, 1091 (5th Cir. 2006) (internal quotation marks and citation omitted). We have reviewed counsel’s brief and the relevant portions of the record reflected therein, as well as Villanueva’s response. We concur with counsel’s assessment that the appeal presents no nonfrivolous issue for appellate review. Accordingly, the motion for leave to withdraw is GRANTED, counsel is excused from further responsibilities herein, Villanueva’s motion for appointment of new counsel is DENIED, and the APPEAL IS DISMISSED. *See* 5TH CIR. R. 42.2.